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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/503,476	02/14/2000	Hiroshi Tojo	862.C1824	6656
5514	7590	12/29/2004	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112				VO, TUNG T
ART UNIT		PAPER NUMBER		
		2613		

DATE MAILED: 12/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/503,476	TOJO, HIROSHI	
	Examiner Tung T. Vo	<b>Art Unit</b> 2613	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 04 November 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 2,5-9,11,14-18,20 and 21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 2,5-9,11,14-18,20 and 21 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____ .

**DETAILED ACTION**

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/04/2004 has been entered.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 2, 5-9, 11, 14-18, and 20-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Miyatake et al. (US 6,021,231).

Re claims 6-7, 15-16, Miyatake discloses a image processing apparatus for processing a moving picture having scene change information (fig. 5), comprising:

designating means (1-4 of fig. 1, e.g. keyboard is used for designating the image or picture of search, the number and time length of scenes included in a moving picture, col. line 65-col. 7, line18) for designating an image that corresponding to a scene that is the object of a search and the number and time length of scenes included in a moving picture (fig. 5, e.g. CLASSIFICATION CODE, START FRAME NUMBER, EN FRAME NUMBER, FRAME NUMBER)

comparison means (20 of figs. 2 and 9) for comparing a scene change frame obtained by referring to the scene-change information with the image designated by said designation means;

scene extraction means (2 of fig. 1, e.g. the computer (2) has the method for extracting the moving picture as shown in the figure 3, col. 5, line 50-col. 6, line 15) for extracting moving pictures, each of which has scenes of the number of the scenes and includes a scene corresponding to the image designated by said designation means, based upon a result of the comparison performed by said comparison means (43 of fig. 4, see also col. 6, line 58- col. 7, line 18);

output means (26 of fig. 2) for combining each of the moving pictures extracted by said scene extraction means into a single moving picture (col. 5, lines 19-49).

Re claim 2, Miyatake further discloses a computation in the comparison (93 of fig. 9) for computing degree of similarity between the scene-change frame and the image that has been designated by said designation means (90 of fig. 9); based upon the calculation the scene extraction means extracts the scene corresponding to said image then outputting scene information relating to scenes that have been extracted (fig. 3); where an editing means (40-1 of fig. 4) for editing the extracted frame.

Re claims 5, 8, and 9, Miyatake further discloses the designation means designates: a pattern image that corresponds to any of leading, intermediate or final frame of a scene that is the object of a search (fig. 9, e.g. first of all, a color histogram feature 91 is derived from a frame image 90 currently taken in. It is compared with a color histogram feature 92 derived in the last frame by a comparator 93); the time of a scene to be extracted; a number of scenes; time of a scene to be extracted of frames prior, frames on, and after frame (fig. 5, e.g. start frame number, end frame number, and the time length, see element 43 of fig. 4).

Re claims 11, 14, and 16-18, the method claims are rejected by Miyatake for the same reasons above, see analysis in claims 2, 5-9, and 15.

#### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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2. Claims 2, 5-9, 11, 14-18, 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nagasaka et al. (US 2002/0012521 A1) in view of Miyatake et al. (US 6,424,744 B2).

Re claims 6, 7, 15, 20 and 21, Nagasaka teaches an image processing apparatus and its method comprising: frame extraction means (106 of fig. 2) for extracting frames constituting an entered moving picture/image from a input unit for queried image (100, 102 of fig. 2). Nagasaka further means (110, 112, 114 of fig. 2) for retrieving an image that corresponds to a scene that is the object of a search (in the figure 3 of Nagasaka, SEGMENT NUMBER, FEATURE and FRAME NUMBER are retrieved by the retrieving means (112 of fig. 2), see also [0034] of page 3); comparison means (130 of fig. 2) for comparing a scene-change frame, which is obtained by referring to the scene-change information that has been stored in said storage images and the image that has been retrieved by retrieving means; scene extraction means (figs. 4 and 5); scene extraction means (122 of fig. 2) for extracting a scene that corresponds to the image based upon the result of the comparison by said comparison, see also the figure 3 of Nakasaga. Moreover, Nagasaka suggests the keyboard (4 of fig. 1) would be used as means for designating a time length of a number of scenes ([0036], page 3, 30 frame images per second).

It is noted that Nagasaka et al. does not particularly teach designation means is capable of designating a number of scenes and time length of scenes included in a moving picture to be extracted as claimed.

However, Miyatake teaches designating an image that corresponds to a scene that is the object of a search and the number and time length of scenes included in a moving picture (20 of fig. 2, see also fig. 5, e.g. the number of scenes in a moving picture, start frame number and end

frame number; 43 of fig. 4, e.g. in the window 43, the user then specifies which and which of the time length, color, sound, the number of divided blocks and the like should be adopted as features to be used as the retrieval condition).

Therefore, taking the teachings of Nagasaka and Miyatake as a whole, it would have been obvious to one of ordinary skill in the art to incorporate the designating means (20 of fig. 2) of Miyatake into the system of Sagasaka for the same purpose of designating/selecting the number of scenes with the time in seconds to be extracted. Doing so would provide an editing process can be performed more efficiently and inexpensive video retrieval apparatus can be implemented as suggested by Miyatake (col. 3, lines 61-62).

Since the combination of Nagasaka and Miyatake teaches all limitations above, the limitations would obviously be programmed with a code on a computer-readable memory using a computer system as taught by Nagasaka (fig. 1) and a general purpose work stations as taught by Miyatake (col. 3, lines 66-61, figs. 1 and 4).

Re claim 2, Nagasaka further teaches a computation in the comparison (fig. 6) for computing degree of similarity between the scene-change frame and the image that has been designated by said designation means (fig. 10A); based upon the calculation the scene extraction means extracts the scene corresponding to said image then outputting scene information relating to scenes that have been extracted (fig. 3); where an editing means (fig. 16) for editing the extracted frame [0053] to [0055].

Re claims 5, 8, and 9, Nagasaka further teaches the designation means designates: a pattern image, SEGMENT NUMBER (fig. 3) that corresponds to any of leading, intermediate or final frame of a scene that is the object of a search (fig. 17); the time of a scene to be extracted

(t1-tn) (804 of fig. 17); a number of scenes (NUMBER OF FRAME, NUMBER OF CANDIDATES); time of a scene to be extracted (fig. 11) of frames prior, frames on, and after frame.

Re claims 11, 14, and 16-18, the method claims are unpatentable over the combination of Nagasaka and Miyatake for the same reasons above, see analysis in claims 2, 5-9, and 15.

***Conclusion***

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See the previous Office Action dated 07/02/04.

***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tung T. Vo whose telephone number is (703) 308-5874. The examiner can normally be reached on 6:30 AM - 3:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris. Kelley can be reached on (703) 305-4856. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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